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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,557	07/07/2003	Frank Yang	PAT-1512	5796

7590 05/18/2004

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EXAMINER

SZUMNY, JONATHON A

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/614,557

Applicant(s)

YANG ET AL.

Examiner

Jon A Szumny

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8 and 10 is/are rejected.
- 7) ☒ Claim(s) 5, 9 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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This is the first office action for application number 10614,557, Trash Can Assembly, filed on July 7, 2003.

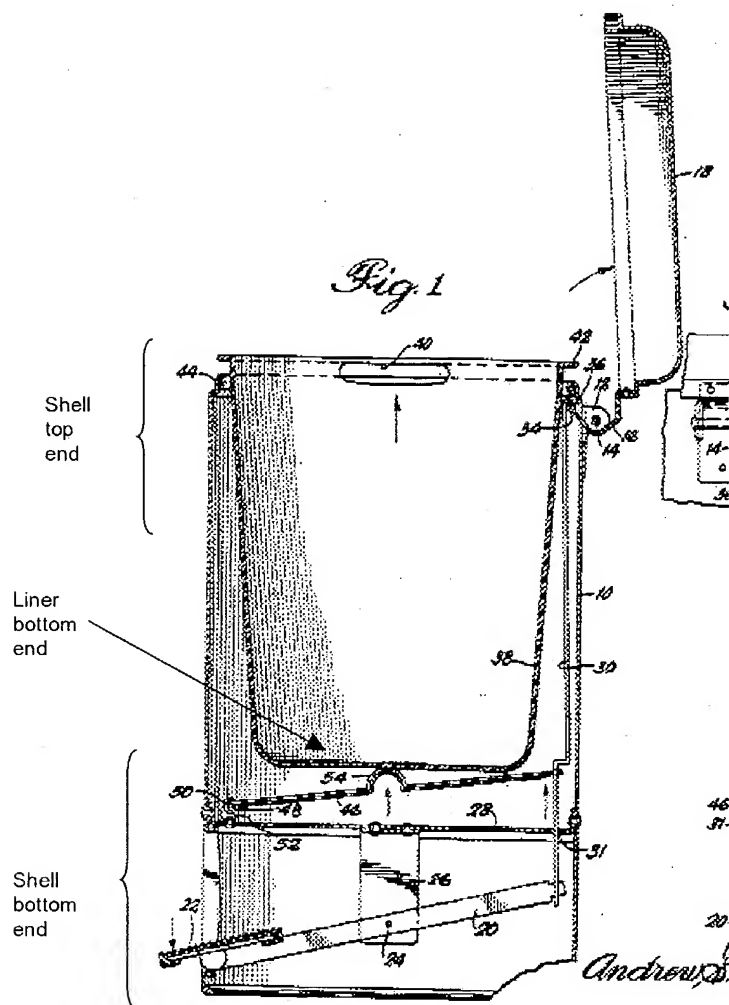
Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 2,946,474 to Knapp.



Knapp '474 discloses a trash can assembly (above) comprising a shell (10) having top and bottom ends (above), a liner (38) defining a container body and fitted inside the shell, a lid (18) fitted over the top end, a foot pedal (22) positioned adjacent the bottom end of the shell, a link assembly (20,30) coupling the foot pedal and the lid, and a support block/means (54, a "block" is defined in Merriam Webster's Collegiate Dictionary - 10th Edition as being "a compact usually solid piece of substantial material... to serve a particular purpose," so clearly 54 is a "support block") provided

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adjacent the bottom end of the shell, wherein the liner has a bottom end that is supported by the support block when the liner is in a raised position, wherein the assembly includes a base (46, or alternatively 28) with the support block provided on the base

Claims 1, 3, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 6,010,024 to Wang.

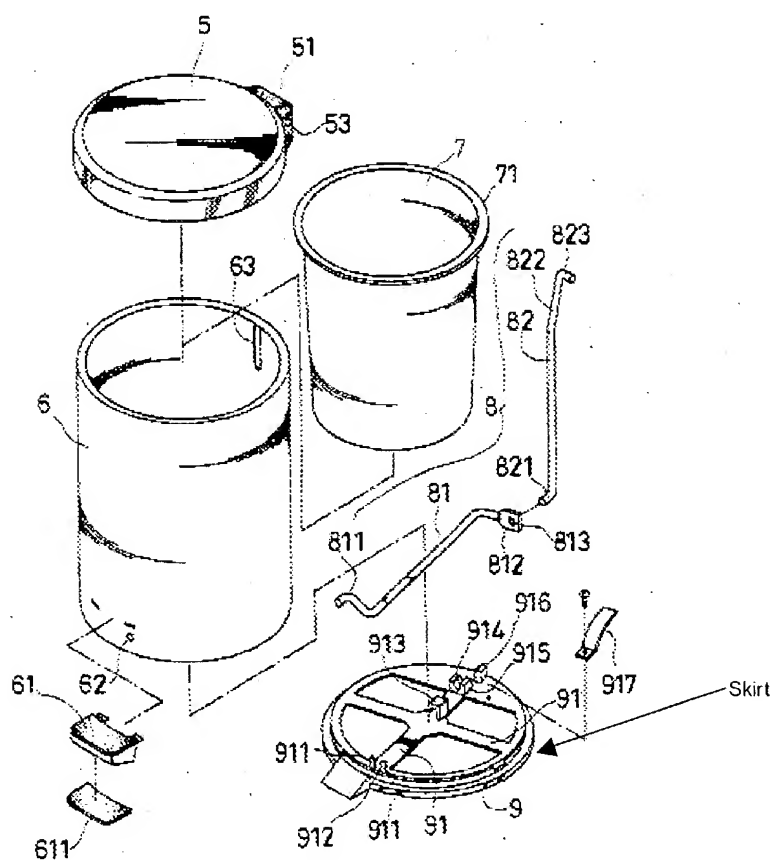
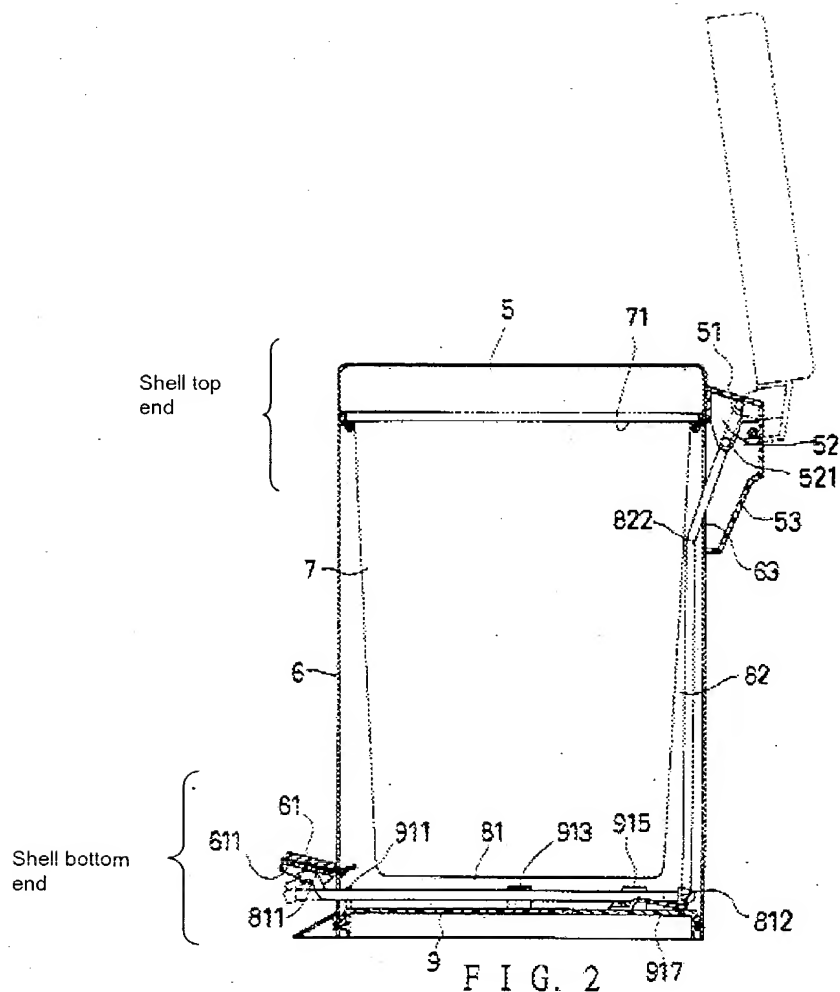


FIG. 1



Wang '024 discloses a trash can assembly (above) comprising a shell (6) having top and bottom ends (above), a liner (7) defining a container body and fitted inside the shell, a lid (5) fitted over the top end, a foot pedal (61) positioned adjacent the bottom end of the shell, a link assembly (81,82) coupling the foot pedal and the lid, and a support block/means (913, a "block" is defined in Merriam Webster's Collegiate Dictionary - 10th Edition as being "a compact usually solid piece of substantial material... to serve a particular purpose," so clearly 913 is a "support block") provided

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adjacent the bottom end of the shell, wherein the assembly includes a base (9) with the support block provided on the base.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wang '024 in view of U.S. Patent Application number US 2002/0079315 to Yang.

Wang '024 divulges the previous invention, and further teaches the base to define a skirt, but fails to specifically teach the skirt to surround the bottom end of the shell. However, Yang '315 teaches trash can assembly (figure 3) including a base (38) with a skirt (50) surrounding the bottom end of a shell (22). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the skirt of Wang '024 to surround the base as in Yang '315 so as to provide for a more a more structurally sound assembly, and to reduce the likelihood of the assembly tipping over.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Knapp '474 in view of U.S. Patent number 5,598,942 to Cowie.

Knapp '474 divulges the previously described invention and inherently teaches a method comprising providing a trash can assembly as previously described, wherein the

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liner is seated inside the shell, the liner is raised with respect to the interior of the shell (when pedal is pushed), and the liner is supported on the support block in a raised position with respect to the shell. However, Knapp '474 fails to specifically teach the liner to have a trash bag fitted therein, wherein the trash bag is fitted in the liner, then the liner is seated within the shell, and wherein the trash bag is removed and replaced when the liner is supported on the support block.

Cowie '942 reveals a trash bag assembly (figure 3) comprising a shell (1), liner (5) and trash bag (2), wherein the bag is first fitted in the liner and then the liner is seated in the shell (column 2, lines 35-41). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method of Knapp '474 by fitting a bag into the liner before seating the liner into the shell so as to provide for a more sanitary assembly by only need to replace an inherently cheap and lightweight bag instead of the entire liner when the assembly is full of trash, in addition to providing an extra layer of material between the trash and rest of the assembly. Further, it would have been obvious to remove the trash bag when the liner is in a raised position with respect to the shell on the support block so as to facilitate removal and replacement of the trash bag by providing a more convenient location with which to access the trash bag. Finally, an ordinary artisan would certainly recognize the need to remove and replace the trash bag when it becomes full.

Allowable Subject Matter

Claims 5, 9 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 5 and 9, the prior art as applied against claims 1 and 6, respectively, taught the liner to have an upper annular lip, and taught the assembly to include an annular wall at the top of the shell, but failed to specifically teach the annular wall to have a groove which exposes a portion of the upper lip of the liner.

With respect to claim 11, the prior art as applied against claims 10 taught the top end of the shell to have an annular wall, but failed to specifically teach the annular wall to have a groove, wherein step d further teaches gripping an upper lip of the liner via the groove to raise the liner.

Conclusion

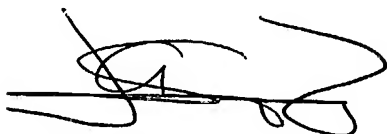
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bourgeois '599, Kubic et al. '619, Craft, Jr. '966, Sumanis '526, Grimesey et al. '343, Ma '455, Hannah et al. '138, Takeuchi '806 and Kamiya '601 teach various trash can assemblies with shells and liners.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.

The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

A handwritten signature in black ink, appearing to read 'Jon Szumny', with a stylized flourish at the end.

Jon Szumny
Patent Examiner
Technology Center 3600
Art Unit 3632
May 14, 2004